

Back up for Agenda Item 2 on the Regular Portion of the Additions to the Agenda:

Reasons for changing the scope of municipal judge and creation court clerk:

The change in the scope of duties for municipal judge and creation of a court clerk is due to the current needs, demands and material changes within the City of El Paso's communities that have become voluminous. The need for a separate municipal clerk is to avoid the conflict of interest between the city manager as the boss of the city clerk, therefore the same city clerk can not serve the judiciary as municipal clerk in conflicting issues.

The items below cite municipal and government codes as well as a news article pertaining to municipal judge and creation of court clerk.

Such municipal judge duties and responsibilities include but not limited to:

1. preside over a voluminous daily trial docket of over 600 cases per week as per statutory jurisdiction;
2. be on call 24 hours a day, 7 days a week to perform magistrate duties to all law enforcement agencies in the City and County of El Paso, Texas (E.P.P.D., Sheriff's Dept., D.P.S., UTEP P.D., EPCC P.D., EPISD P.D. and other law enforcement / police agencies in the surrounding local communities);
3. review and rule on the large number of written preliminary trial motions, post trial motions, paperwork and correspondence received daily;
4. officiate over the monthly jury trials;
5. preside over the specialized Environmental Court (specific municipal ordinance cases);
6. preside over bond forfeiture cases;
7. preside over all pretrial, post trial and related motion hearings;
8. set bond/ bail in felony and misdemeanor cases;
9. issue emergency protective orders;
10. issue emergency detention orders in mental commitment cases;
11. issue search warrants;
12. advise defendants, juveniles and other necessary parties of the charges, their legal rights, procedures and legal options;
13. research ordinances, statutes, and case law as applicable;
14. maintain current and essential legal education crucial to the court;
15. assist as necessary at arraignment court, other trial courts, weekend night duties, weekend day duties, weekend and weekday jail duties;
16. attend the Council of Judges' meetings to address fundamental obligations, review and adopt municipal court procedures consistent with the substantive issues relative to the administration of the El Paso Municipal Courts;
17. perform any other duties required associated with the court, or as assigned, not limited to specialized hearings, right of possession hearings, administrative hearings, and appeals from parking violations.

The Municipal Judge shall be licensed to practice law in the State of Texas; be a resident of El Paso, Texas; and have the experience to effectively and efficiently manage the statutory duties and responsibilities of the office.

Government Code

§ 30.00009. CLERK; OTHER PERSONNEL. (a) The governing body shall by ordinance provide for the appointment of a clerk of the municipal courts of record. The municipal clerk shall keep the records of the municipal courts of record, issue process, and generally perform the duties that a clerk of a county court at law exercising criminal jurisdiction performs for that court. In addition, the clerk shall maintain an index of all court judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts.

(b) The governing body may provide deputy clerks, warrant officers, and other personnel as needed for the proper operation of the courts.

(c) The clerk and other court personnel perform their duties under the direction and control of the presiding judge.

(d) The governing body shall by ordinance provide for the hiring, direction, supervision, and removal of the personnel authorized in the annual budget for the clerk's office.

Added by Acts 1987, 70th Leg., ch. 811, § 1, eff. Aug. 31, 1987.

Renumbered from V.T.C.A., Government Code § 30.488 by Acts 1997, 75th Leg., ch. 165, § 8.02, eff. Sept. 1, 1997. Renumbered from § 30.00008 and amended by Acts 1999, 76th Leg., ch. 691, § 1, eff. Sept. 1, 1999.

Government Code

§ 30.00003. CREATION OF MUNICIPAL COURTS OF

RECORD. (a) The governing body may by ordinance create a municipal court of record if the governing body determines that the creation of the court is necessary to provide a more efficient disposition of the cases arising in the municipality.

(b) The ordinance may establish as many municipal courts of record as needed as determined by the governing body.

(c) Except as provided by Subsection (d), the ordinance shall give each court a numerical designation, beginning with "Municipal Court of Record No. 1."

(d) If a municipality has a unified court of record, that court shall be the "Municipal Court of Record in the City of (name of municipality)" and the municipality may establish by ordinance divisions, beginning with "Division No. 1."

(e) A municipal court of record may not exist concurrently with a municipal court that is not a municipal court of record in the municipality.

(f) A municipal court of record has no terms and may sit for any time for the transaction of business of the court.

Added by Acts 1987, 70th Leg., ch. 811, § 1, eff. Aug. 31, 1987.

Renumbered from V.T.C.A., Government Code § 30.483 by Acts 1997, 75th Leg., ch. 165, § 8.02, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, § 1, eff. Sept. 1, 1999.

Court Justice Worried About Criticism

Source: Associated Press/AP Online

Publication date: 2005-08-10

Arrival time: 2005-08-09

CHICAGO - Supreme Court Justice Stephen Breyer said Tuesday that rulings on difficult subjects like gay rights and the death penalty have left courts vulnerable to political attacks that are threatening judicial independence.

Breyer urged lawyers to help educate people about court responsibility to be an independent decision-maker.

"If you say seven or eight or nine members of the Supreme Court feel there's a problem ... you're right," he told the American Bar Association. "It's this edge on a lot of issues." Sen. Lindsey Graham, R-S.C., who was speaking with Breyer, said: "The politics of judges is getting to be red hot." He said Supreme Court rulings on the Pledge of Allegiance and Ten Commandments have captured the public's interest and polarized Democrats and Republicans. "There's nothing that's not on the table," former Solicitor General Theodore Olson said of the court's work, which this fall includes issues like abortion, capital punishment and assisted suicide.

Breyer said the nine-member court is focused on constitutional limits on major fights of the day. "We're sort of at the outer bounds. And we can't control politics of it, and I don't think you want us to try to control politics of it," he said.

Congressional leaders including House Majority Leader Tom DeLay, R-Texas, have criticized justices in recent months. DeLay was particularly critical of the court's refusal to stop Terri Schiavo's death and at a death penalty decision that cited international cases. Breyer defended using overseas legal opinions as a guide only, adding, "It has hit a political nerve."

Breyer, Olson and Graham were discussing the future of courts on the final day of the ABA's annual meeting in Chicago. Also Tuesday, the group was debating whether to endorse federal protection for journalists who refuse to reveal their sources to prosecutors. Passage of such a measure would authorize the organization to lobby Congress, where "shield law" proposals are pending. Judicial independence has been a major theme at the meeting of the ABA, a 400,000-member group.

The group's policymaking board passed a resolution urging elected officials and others to support and defend judges. New group President Michael Greco of Boston said

judges have faced physical threats, and threats of impeachment from Washington political leaders unhappy with court decisions.

"If we do not protect our courts, our courts cannot protect us," Greco said.

On another subject, Greco defended the ABA's role in checking the background of Supreme Court nominee John Roberts and other federal judicial nominees. The committee has spent the past two weeks reviewing Roberts' work on an appeals court and interviewing people who have worked with him.

"The ABA does not, and we will not, protect the interests of any political party or faction, nor the interests of any ideological or interest group," said Greco, who previously oversaw the judge review committee.

Breyer told the group that the retirement of Sandra Day O'Connor is a personal loss and loss for the nation.

On the Net:

American Bar Association: <http://www.abanet.org>

Publication date: 2005-08-10

© 2005, [YellowBrix, Inc.](#)

By utilizing the content on this page, you agree to the [legal terms](#).

CHARTER

ARTICLE V CITY MANAGER

Section 5.2. POWERS AND DUTIES.

The City Manager shall be the chief administrative officer of the City, responsible to the Council for the administration of all City affairs placed in the Manager's charge by or under this Charter. The City Manager shall:

- (1) Take personnel actions regarding employees as authorized under this Charter, except as provided by law or by any agreement with the County of El Paso with respect to City-County Health and Environmental District employees. The City Manager may authorize department heads to exercise these powers with respect to their subordinates;
- (2) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law;
- (3) Attend all City Council meetings. The City Manager shall have the right to take part in discussion but shall not vote;

- (4) See that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by employees subject to the Manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the City Council;
- (6) Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- (7) Make such other reports as the City Council may require concerning the operations of City departments, offices and agencies subject to the City Manager's direction and supervision;
- (8) Keep the City Council fully advised as to the financial condition and future needs of the City;
- (9) Make recommendations to the City Council concerning the affairs of the City;
- (10) Provide support to the offices of the Mayor and the Representatives; and
- (11) Perform such other duties as are specified in this Charter or may be required by the City Council. (Amended by vote of the people 2/7/04)

CHARTER

ARTICLE V CITY MANAGER

Section 5.5. INTERFERENCE WITH PERSONNEL OR ADMINISTRATION.

Except for the purposes of investigations under Section 3.8 and inquiries, the members of the Council shall deal with City employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor any of its members shall give orders to any such employee, either publicly or privately. Neither the Council nor any of its members shall in any manner control or demand the appointment or removal of any City employee whom the City Manager is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such employees. (Added by vote of the people 2/7/04)

10.04.060 Subpoenas--Failure to take oath or answer questions at hearing.

A. No person shall fail or refuse to obey any subpoena or subpoena duces tecum issued by any commission, board or officer of the city having authority to issue the same, or fail or refuse to take the oath or affirmation as a witness at any hearing before such commission, board or officer when lawfully called upon to take the same, or at any such hearing fail or refuse to answer any question when lawfully directed by such commission, board or officer to answer the same.

B. Any person charged with a violation of this section may defend by showing that the act or failure to act complained of was done under circumstances which would have excused such act or failure to act if the same had been in disobedience of an order, direction or command of a court. (Prior code § 15-34)

[Title 2 ADMINISTRATION AND PERSONNEL](#)

[Chapter 2.44 COURTS](#)

2.44.010 Created.

A. The municipal court established by the city Charter shall be styled the El Paso Municipal Court of Record No. 1.

B. There are created under the authority of Chapter 30, Texas Government Code, and successor statutes, four additional municipal courts which shall be styled respectively: the El Paso Municipal Court of Record No. 2; the El Paso Municipal Court of Record No. 3; the El Paso Municipal Court of Record No. 4; and the El Paso Municipal Court of Record No. 5.

C. The municipal courts of the city are established as courts of record in accordance with the terms and provisions, powers, duties and limitations as set forth in Chapter 30, Government Code, and successor statutes.

D. Each municipal court shall be presided over by a municipal judge and one or more substitute associate judges.

E. The office of the municipal court clerk is established as a division of the municipal clerk's department to serve as clerk of all of the El Paso municipal courts of record. The appointment of the municipal court clerk and the hiring, direction, supervision and removal of court personnel shall be governed by the city Charter, the rules of the Civil Service Commission and the Compensation and Classification Ordinance of the city. The position of the municipal court clerk shall be classified as municipal clerk, who shall serve as the head of the department. The appointment of the municipal clerk shall constitute the appointment of the city clerk as required under Section 3.7(C) of the city Charter. The municipal clerk shall be, for all purposes stated in the city Charter, city ordinances and under state law, both the city clerk and the municipal court clerk. (Ord. 15183 § 1, 2002: Ord. 14172 § 1, 1999: prior code § 7-1)

[Title 2 ADMINISTRATION AND PERSONNEL](#)

[Chapter 2.44 COURTS](#)

2.44.020 Court of appeals.

A. The El Paso Municipal Court of Appeals is established in accordance with the terms and provisions, powers, duties and limitations as set forth in Chapter 30, Government Code, and successor statutes.

B. The El Paso Municipal Court of Appeals shall be presided over by an appellate judge who shall be selected in accordance with the terms and provisions, powers, duties and limitations as set forth in Chapter 30, Government Code, and successor statutes. (Ord. 14172 § 2, 1999: prior code § 7-2)

Title 2 ADMINISTRATION AND PERSONNEL

Chapter 2.44 COURTS

2.44.030 Judges.

A. In addition to the qualifications prescribed in the city Charter, the presiding municipal judge shall be a licensed attorney at law who has practiced law in Texas at least five years prior to his or her election by a majority of the of the municipal judges.

B. The term of office for judges shall be as provided in the city Charter.

C. The city council may appoint one or more substitute associate municipal judges to sit for the regular judge of any municipal court when such regular judge is temporarily unable to act for any reason. Such substitute associate municipal judge shall possess the same qualifications required of the regular municipal judges and shall have all the powers and duties of the judge for whom such substitute associate municipal judge is sitting while so acting.

D. Any substitute associate municipal judge appointed pursuant to subsection B of this section may be assigned to serve as night magistrate under the supervision of the presiding municipal judge. The duties of the night magistrate shall be those prescribed by the laws of the state, particularly the Code of Criminal Procedure, at the discretion of the presiding judge.

E. The presiding municipal judge may, when necessary for the expeditious disposition of the business of the courts and with the approval of the governing body of the city, divide a municipal court into one or more divisions in accordance with the terms and provisions, powers, duties and limitations as set forth in Chapter 30, Texas Government Code, and successor statutes.

F. A vacancy in the office of judge is filled by appointment by the city council and the person appointed serves until the next regular municipal election, at which time his successor shall be elected. An appointee may succeed himself or herself. (Ord. 14172 § 3, 1999: prior code § 7-3)

Title 2 ADMINISTRATION AND PERSONNEL

Chapter 2.44 COURTS

2.44.040 Practice and procedure.

A. The following practice and procedure is established for the municipal courts of record of the city:

1. In lieu of a physical arrest, or as otherwise provided by law, every police officer or other employee of the city who is charged with the responsibility of enforcement of any law or ordinance within the jurisdiction of the municipal courts of the city may issue a citation for any state law violation punishable only by fine, as defined in Article 4.14(c), Texas Code of Criminal Procedure, or for any violation of a municipal ordinance.

2. Such citation shall contain the following information:

- a. The name and address of the person cited;
- b. The driver's license number or other identification sufficient to satisfactorily identify the person cited;
- c. The offense for which the person cited is charged;
- d. The date when the offense occurred;
- e. A written promise of the person cited to appear before the municipal courts on the assigned arraignment date set forth on the citation; and
- f. The location of the offense.

3. Every person, other than a person under the age of seventeen, issued a citation may, in lieu of appearing at a hearing on the arraignment date set forth on the citation, make payment to the Traffic Violations Bureau within ten days of the date the citation was issued. Payment must be made in accordance with the procedures set forth in Section 2.44.060 of this code.

4. Failure of any person cited in accordance with the provisions of this section to make arrangements for payment or to appear at the assigned arraignment date or a court hearing before the municipal courts of the city as herein required shall result in the immediate issuance of a *capias* as provided in Article 23.04, Texas Code of Criminal Procedure or summons directed to the individual cited.

B. The procedure provided for in subsection A of this section is not authorized in any of the following circumstances:

1. When the person to be arrested demands an immediate appearance before a magistrate.
2. When the person to be arrested fails or refuses to give satisfactory identification or furnish the other information required of him in subsection (A)(2) of this section.
3. When the person to be arrested is intoxicated to a degree where he is unable to care for himself.

C. Nothing contained in this section shall make the issuance of a citation mandatory for offenses in violation of any law or ordinance within the jurisdiction of the municipal courts of the city, it being the sole intent of this section to provide an alternate method for procedures to be initiated before the municipal courts of the city.

D. The municipal court clerk shall supervise the selection of persons for jury service.

E. The records of the El Paso municipal courts and the El Paso municipal court of appeals shall be maintained separately in accordance with the provisions of Chapter 30 of the Texas Government Code. All documents required by state law to be filed with or mailed to the El Paso municipal courts or the clerk of the municipal court shall be filed with or mailed to the office of the municipal court clerk located with the El Paso municipal courts. All documents or appellate court decisions required by state law to be filed with the El Paso municipal court of appeals or the appellate court clerk shall be filed with the office of the city clerk located in city hall. (Ord. 15183 § 2, 2002: Ord. 14862 § 1, 2001: Ord. 14172 § 4, 1999: Ord. 11048 § 1, 1992; prior code § 7-4)

[Title 2 ADMINISTRATION AND PERSONNEL](#)

[Chapter 2.44 COURTS](#)

2.44.050 Summons and citations--Unlawful disposition designated.

It is unlawful for any police officer or any other employee of the city to take up, destroy, excuse, cancel, or, in any way, revoke or impair the operation of any traffic ticket, citation or notice issued by a peace officer of the city to any violator or alleged violator of traffic regulation, or any other process, summons, citation, ticket or other paper issued by the police force in connection with any criminal case, within the jurisdiction of the municipal court of the city, whether at the solicitation of any city official or other person whomsoever, and it is unlawful for any city official or employee, or any other person, to solicit of any police officer or other city employee or official the dismissal, cancellation, taking up or other disposition of any such ticket, citation, notice, summons, or process issued by a member of the police force of the city, in any manner within the jurisdiction of the municipal court of the city. Nothing herein contained shall be construed to prevent the making of any proper motion or request addressed to the municipal court. (Prior code § 7-5)

Title 2 ADMINISTRATION AND PERSONNEL

Chapter 2.44 COURTS

2.44.060 Summons and citations--Fee schedule--Payments.

A. The judges of the municipal courts may from time to time establish a schedule of amounts of money which may be paid at the traffic violations bureau by persons who have been given traffic tickets or class "C" citations for violations of any offense, within the jurisdiction of the municipal court. The schedule shall be uniform for all the municipal courts. If the judges do not all agree on the schedule, the agreement of a majority will be sufficient; and if no majority agreement is reached the matter may be determined by the presiding judge. The amount fixed in the schedule for each class of offense, or subdivision under a class, shall not be more than the largest fine which could be imposed therefor.

B. Payment at the traffic violations bureau according to such schedule may be made (either in person or by mail) by the person charged, or by an attorney at law authorized to represent him, or by any other person if such other person files with the traffic violations bureau written authority therefor from the person charged.

C. Within ten days after such payment is made the person charged may request the clerk or his deputy for a hearing on the case, and the clerk shall then put the case on the trial docket of the appropriate court.

D. If the person charged does not request a hearing within ten days the clerk shall report the case to the presiding judge, who may (either by separate written instrument or by endorsement of a list of cases in which trial has not been requested within ten days) accept the amount paid; and such acceptance shall constitute a finding of guilty in open court as though a plea of nolo contendere had been entered by the defendant; provided, the judge may on his own motion refuse to accept the amount paid, and he shall then order the case set down for trial; and the judge shall refuse to accept the amount and shall order the case set down for trial if the prosecuting attorney so requests.

E. If the judge accepts the amount paid as herein set forth, such payment shall not thereafter be refunded, and the person charged shall be relieved of any duty thereafter to appear for trial on such violation.

F. The traffic violations bureau shall not receive any payment made set forth in this section in an amount less than the amount fixed by the schedule, except upon written direction of both a majority of the judges and a prosecuting attorney.

G. The person charged shall not have the privilege of making the payment as set forth herein, and the traffic violations bureau shall not receive the payment, if in the particular case a judge or a prosecuting attorney has instructed the bureau that he desires such case to be tried and that the person charged is not to be released without making bail in one of the ways provided by law.

H. In lieu of making a payment fixed by the schedule herein set forth, the person charged shall have the right, if he so requests to ask for a court setting or giving bail as in other cases.

I. No judge of the municipal court shall dismiss any case (whether a traffic violation or other charge) except at a trial in open court or upon motion of a prosecuting attorney. (Prior code § 7-6)

[Title 2 ADMINISTRATION AND PERSONNEL](#)

[Chapter 2.44 COURTS](#)

2.44.070 Summons and citations--Authority to receive and approve bonds.

In all cases arising out of any alleged violation of the laws of the city or the state within the jurisdiction of the municipal courts of the city, the clerk of the municipal court shall have concurrent authority to receive and approve bonds in amounts to be fixed by a judge of the municipal court. (Ord. 14172 § 5, 1999: prior code 7-7)

[Title 2 ADMINISTRATION AND PERSONNEL](#)

[Chapter 2.44 COURTS](#)

2.44.080 Special expense fee.

In accordance with Article 45.203, Texas Code of Criminal Procedure, each municipal court judge may, as a result of the issuance and service of a warrant of arrest for a offense under Section 38.10, Texas Penal Code, or Section 543.009, Texas Transportation Code, impose a special expense fee upon the subject of said warrant in the amount of twenty-five dollars, provided that a written notice of the warrant was sent to the subject of said warrant at the address provided by the subject at the time of the issuance of the citation or other address provided by the subject to the court, whichever was provided later, and he or she failed to respond to the notice and contact the court within ten days of the date the notice was sent. (Ord. 14172 § 6, 1999: Ord. 8507, 1985: Ord. 8146, 1984: prior code § 7-8)

[Title 2 ADMINISTRATION AND PERSONNEL](#)

[Chapter 2.44 COURTS](#)

2.44.090 Court costs.

A defendant convicted of an offense taking place on or after September 1, 1995, shall pay a three dollar security fee as a court cost to the El Paso Municipal Courts of Record for the "municipal court security fund." The proceeds from this fund shall be used to provide security for the building housing the El Paso Municipal Courts of Record, in accordance Article 102.017(d), Texas Code of Criminal Procedure.

A defendant convicted of an offense taking place on or after September 1, 1999 shall pay a four dollar technology fund fee as a court cost to the El Paso Municipal Courts of Record for the "municipal court technology fund." The proceeds from this fund shall be used to finance the purchases and the maintenance of technological enhancements for the municipal courts in accordance with Article 102.0172, Texas Code of Criminal Procedure. (Ord. 15664 § 1, 2004; Ord. 14172 § 7, 1999; Ord. 12500, 1995; Ord. 10678, 1991)

[Title 2 ADMINISTRATION AND PERSONNEL](#)

[Chapter 2.44 COURTS](#)

2.44.100 Juror reimbursement.

A. Each municipal court jury panel member present for service at voir dire examination and not ultimately selected for jury membership is entitled to receive, as reimbursement for travel and other expenses, and amount of six dollars for each day or fraction of each day served.

B. Each municipal court jury panel member selected and seated as a jury member is entitled to receive, as reimbursement for travel and other expenses, an amount of forty dollars for each day or fraction of each day served. (Ord. 15405 § 1, 2003)

[Title 2 ADMINISTRATION AND PERSONNEL](#)

[Chapter 2.92 ETHICS](#)

2.92.010 Policy.

All city officers and employees have a fiduciary duty to the citizens of the city to be ethical in fulfilling the responsibilities of their positions. At the very least, being ethical includes being disposed to comply with all laws that apply to one's position. (Ord. 15293 § 2, 2002)

[Title 2 ADMINISTRATION AND PERSONNEL](#)

[Chapter 2.92 ETHICS](#)

2.92.020 Purpose.

A. Ethical conduct is motivated by sources inside and outside the law. The Texas local government, Election and Penal Codes regulate aspects of the conduct of city officers and employees. However, as ethical conduct is more than complying with state codes, the city strongly encourages all of its officers and employees to maintain the highest personal values and standards. While it is impossible to establish specific and exhaustive standards for all situations, the standards established in this chapter are minimum standards below which no city officer or employee's conduct should fall. This chapter has the following purposes:

1. To establish an ethics review commission;
2. To maintain and improve standards of public service;
3. To improve public confidence in the integrity of city government;
4. To provide a process by which officers and employees may identify and resolve ethical issues;
5. To avoid conflicts between the personal interest and the public responsibilities of city officers and employees;
6. To establish minimum standards of conduct to be adhered to by city officers and employees;
7. To require disclosure of private financial interests by certain individuals;
8. To require reporting of certain gifts received by certain individuals;
9. To provide for complaints and resolution of ethical issues and concerns; and
10. To provide penalties for failure to adhere to the minimum standards set forth in this chapter.

B. This chapter is cumulative of and supplemental to all applicable provisions of the city charter, other city ordinances, and state and federal laws and regulations. Compliance with this chapter does not excuse or relieve any person from any obligation imposed by the city charter, other city ordinances, or state or federal laws or regulations.

C. The city attorney's office shall prepare, maintain and make available a chart that summarizes the application of the various obligations imposed by this chapter and the charter on officers and employees. (Ord. 15293 § 3, 2002)

[Title 2 ADMINISTRATION AND PERSONNEL](#)

[Chapter 2.92 ETHICS](#)

2.92.030 Definitions.

For the purposes of this chapter:

A. "Benefit" means any economic gain or economic advantage to an officer or employee or to a relative of an officer or employee. "Benefit" does not include:

1. Political contributions made or received and reported in accordance with law;
2. Awards, such as plaques, certificates, trophies or similar mementos, publicly presented in recognition of public service;
3. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
4. Gifts or other tokens of recognition presented by representatives of governmental bodies or political subdivisions who are acting in their official capacities;

5. Commercially reasonable loans made to an officer or employee in the ordinary course of the lender's business;

6. Complimentary copies of trade publications;

7. Reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances or ceremonies related to official city business, if furnished by the sponsor of such public event; or in connection with speaking engagements, teaching or rendering other public assistance to an organization or another governmental entity;

8. Any economic gain or economic advantage, excluding cash or a negotiable instrument as described by Section 3.104, Texas Business and Commerce Code, conferred by any one person or organization if the economic value totals less than fifty dollars per calendar year; or

9. An honorarium, transportation or lodging, the acceptance of which is not prohibited under Sections 36.07 and 36.08, Texas Penal Code.

B. "Board" means a board, commission or committee:

1. Which is established to participate in some manner in the conduct of city government, including participation which is merely advisory, whether established by city ordinance, city charter, interlocal contract, state law or any other lawful means; and

2. Any part of whose membership is appointed by the city council, but does not include a board, commission, or committee, which is the governing body of a separate subdivision of the state.

3. The city clerk shall maintain one or more lists of the boards whose members are subject to the various provisions contained in this chapter, and such lists shall be made available to the public during working hours upon request.

C. "Confidential information" means any written information that could be excepted from disclosure pursuant to the Texas Public Information Act, if such disclosure has not been authorized; or any non-written information which, if it were written, could be excepted from disclosure under that act, unless disclosure has been authorized.

D. "Employee" means a person employed and paid a salary by the city whether under civil service or not, including those individuals on a part-time basis and including those officially selected for employment but not yet serving; but does not include an independent contractor or city council member. For purposes of this ordinance and for no other purpose, the term employee includes volunteers.

E. "Negotiating concerning prospective employment" means a discussion between a city officer or employee and another employer concerning the possibility of the city officer or employee considering or accepting employment with the employer, in which discussion the city officer or employee responds in a positive way.

F. "Officer" means a member of the city council and any member of a board appointed by the city council. It includes any member of a board that functions only in an advisory or study capacity.

G. "Relative" means a person who is related to an officer or employee as spouse or as any of the following, whether by marriage, blood or adoption: parent, child, brother, sister, aunt, uncle, niece, nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, step son-in-law, stepdaughter, step daughter-in-law, stepbrother, stepsister, half-brother, half-sister, brother-in-law or sister-in-law.

H. "Volunteer" means an individual who provides services to the city without any expectation of compensation or financial gain and without receiving any compensation or financial gain.

I. "Public event, appearances or ceremonies" means those functions, activities and ceremonies conducted by or for the benefit of any governmental entity; a function, activity or ceremony conducted by a non-profit corporation or similar organization formed for educational, scientific, community-betterment or economic development purposes which relates to the purpose for which the non-profit corporation or organization was formed; or a function, activity or ceremony which honors or recognizes the accomplishments of a political, prominent or public figure.

J. "Official city business" means a purpose or function related to the duties or activities of office or employment.

K. "City resources" means any city asset, including but not limited to facilities, equipment, supplies, software, and personnel services.

- L. "Quasi-judicial proceeding" means by hearing or proceeding held by a public administrative officer, to include but not be limited to a hearing officer, arbitrator or administrative law judge, who is required to hear or investigate facts and to draw conclusions from them as a basis for his or her official action and to exercise discretion of a judicial nature.
- M. "Business days" means the weekdays excluding city holidays. (Ord. 15293 § 4, 2002)

Title 2 ADMINISTRATION AND PERSONNEL

Chapter 2.92 ETHICS

2.92.040 Ethics review commission.

- A. Ethics Review Commission Established. In order to assist the city council, an ethics review commission of nine members is hereby established.
- B. Mission. The ethics review commission shall serve as an advisory body to the mayor and city council on matters concerning ethics in government of the city.
- C. Membership.
1. All members of the ethics review commission shall be residents of the city. No member shall be a city employee, hold any city elected office or be a candidate for any city elected office. A member may contribute to a city political campaign, but to the extent this prohibition is consistent with the charter, no member shall participate in any city political campaign or in a campaign relating to a city referendum or other ballot issue.
 2. Members shall be appointed for a two-year period, except that appointments made to fill vacancies created during a term shall be for the remainder of the term. The term of office for each appointee shall commence on February 21st and shall terminate on February 20th at the conclusion of the respective term. Terms shall be staggered in the following manner:

Mayor's appointee terms expire in even-number years
District 1 appointee terms expire in even-numbered years
District 2 appointee terms expire in odd-numbered years
District 3 appointee terms expire in even-numbered years
District 4 appointee terms expire in odd-numbered years
District 5 appointee terms expire in odd-numbered years
District 6 appointee terms expire in even-numbered years
District 7 appointee terms expire in even-numbered years

District 8 appointee

. terms expire in
odd-numbered years

D. Procedures.

1. The ethics review commission shall select from among its members a chair and a vice-chair and shall adopt, subject to the approval of city council, such rules governing its proceedings as it may deem proper. Such rules and regulations must be consistent with the city charter and ordinances of the city and shall parallel, to the extent possible, the rules adopted by city council to govern its own meetings.

2. The ethics review commission shall be assigned staff by the city council to assist in its duties as the city council deems necessary.

E. Duties. The ethics review commission shall:

1. Oversee all ethics matters and assist the city council in resolving ethical issues.

2. Review, evaluate and provide recommendations on issues as requested by the city council.

3. Provide recommendations for the city council regarding orientation programs or procedures for officers and volunteers focusing on education of the importance of ethics in city government and on the provisions of this chapter.

4. Provide information to the community on ethics in city government, as may be necessary for the promotion of the public trust.

5. Review, evaluate and provide recommendations to the city council on complaints.

6. Provide information on the disposition of specific issues by referring to minutes of commission meetings and ethics review commission reports.

7. Periodically review and propose changes to this chapter.

8. Develop guidelines and procedures to promote compliance with this chapter.

9. Prepare written annual reports for the city council. Submit additional reports as needed. (Ord. 15293 § 5, 2002)

Title 2 ADMINISTRATION AND PERSONNEL

Chapter 2.92 ETHICS

2.92.050 Standards of conduct.

Officers or employees:

A. Shall not accept or solicit for personal financial gain, any benefit that might reasonably tend to influence them to act improperly in the discharge of official duties;

B. Shall not use their official positions improperly to secure unwarranted privileges or exemptions for themselves, relatives, or others. This provision does not preclude officers or employees from acting in any manner consistent with their official duties or from zealously providing public services to anyone who is entitled to them;

C. Shall not participate in making or influencing any city governmental decision or action in which they know that they have any financial interest distinguishable from that of the public generally or from that of other city officers or employees generally;

D. Shall not give reasonable basis by their conduct for the impression that any person can improperly influence, or unduly enjoy their favor in, the performance of their official duties, or that they are unduly affected by the kinship, rank, position or influence of any person;

E. Shall not use his or her position to secure official information about any person or entity for any purpose other than the performance of official responsibilities;

F. Shall not use or disclose, other than in the performance of their official duties or as may be required by law, confidential information gained in the course of or by reason of their positions. This provision applies to former officers and employees as well as to current ones;

G. Shall not knowingly perform or refuse to perform any act in order to deliberately thwart the execution of the city ordinances, rules or regulations or the achievement of official city programs;

H. Shall not utilize city resources for personal benefit or the personal benefit of a relative, friend or business associate, except to the extent that the benefit received is strictly incidental to the performance of official duties, or to the extent that the person is entitled by law to obtain public services from the city;

I. Shall not transact any business (other than ministerial acts) on behalf of the city with any business entity of which they are officers, agents or members, or in which they have a financial interest. In the event such a circumstance arises, then they shall make known their interest, and:

1. In the case of an officer, abstain from voting on the matter and refrain from discussion of the matter at any time with the other members of the body of which he or she is a member and with any other person or body in city government which may consider the matter; and

2. In the case of an employee, disclose the matter to an appropriate administrative authority within city government so that reassignment or other suitable action may be taken to remove the employee from any further involvement in the matter.

J. Shall not personally provide services for compensation, directly or indirectly, to a person or organization who is requesting an approval, investigation, or determination from the body or department of which the officer or employee is a member. This restriction does not apply to outside employment of an officer if the employment is the officers primary source of income;

K. Shall not accept other employment or engage in outside activities incompatible with the full and proper discharge of their duties and responsibilities with the city, or which might impair their independent judgment in the performance of their public duty;

L. Shall not personally participate in a decision in a matter if the officer or employee is negotiating or has an arrangement concerning prospective employment with a person or organization that has a financial interest in a matter under consideration by or within the jurisdiction of the city, and in the case of an employee if it has been determined by the city manager that a conflict of interest exists. For purposes of this section, the term "decision" shall mean a decision, approval, disapproval, recommendation, investigation or rendering of advice, and the term "matter" shall include but not be limited to a matter, proceeding, application, request for ruling or determination, contract or claim which involves the city. In such instance, the officer or employee shall:

1. In the case of an employee, immediately notify the official responsible for appointment to his or her position of the nature of the negotiation or arrangement and, if the city manager determines that a conflict of interest exists, follow the instructions of the city manager with regard to further involvement in the matter; or

2. In the case of a board member, immediately notify the board of which he or she is a member of the nature of the negotiation or arrangement and:

- a. Refrain from discussing the matter at any time with other board members or members of the city council if the city council will also consider the matter; and

- b. Abstain from voting on the matter; or

3. In the case of a member of the city council, file an affidavit with the city clerk describing the nature of the negotiation or arrangement and:

- a. Refrain from discussing the matter at any time with other council members or members of a board that will consider the matter; and

- b. Abstain from voting on the matter.

M. Shall not receive any fee or compensation for their services as officers or employees of the city from any source other than the city, except as may be otherwise provided by law. This shall not prohibit their performing the same or other services for a public or private organization that they perform for the city if there is no conflict with their city duties and responsibilities;

N. Shall not, in the case of a member of the city council or an employee, personally represent or appear in behalf of the private interest of another before the city council, or any city board or

department; or, if the represented person's interest is adverse to that of the city, represent any person:

1. In any quasi-judicial proceeding involving the city; or
2. In any judicial proceeding to which the city is a party; provided that nothing in this subsection shall preclude:
 - a. A city council member from speaking or appearing without compensation before the city council or any board or department on behalf of constituents in the course of his or her duties as an elected official;
 - b. Any employee from performing the duties of his or her employment;
 - c. Any employee from appearing before the city council or any city board or department, in a manner consistent with other city policies and rules, to discuss any general city policies or public issues, including the presentation of viewpoints or petitions of other employees; or
 - d. A city council member or an employee from testifying as a witness under subpoena in a judicial or quasi-judicial proceeding.

O. Shall not, in the case of a board member, personally represent or appear in behalf of the private interests of another:

1. Before the board of which he or she is a member;
2. Before the city council unless the board member discloses his or her status as a board member to the council and the representation or appearance does not relate to a matter that was heard or decided by the board of which the board member is a member or a board that has appellate jurisdiction over the board of which the board member is a member;
3. Before a board which has appellate jurisdiction over the board of which he or she is a member; or
4. In a judicial or quasi-judicial proceeding to which the city or an employee of the city is a party, if the interest of the person being represented is adverse to that of the city or an employee of the city and the subject of the proceeding involves the board on which the board member is serving or the department providing support services to that board. (Ord. 15855 § 1, 2004: Ord. 15293 § 6, 2002)

[Title 2 ADMINISTRATION AND PERSONNEL](#)

[Chapter 2.92 ETHICS](#)

2.92.060 Restrictions.

A. An officer or employee in a position which involves significant reporting, decision-making, advisory, or supervisory responsibility who leaves the service or employment of the city shall, during the twelve months after leaving the service or employment of the city, disclose his previous position and responsibilities with the city whenever he represents any other person or organization in any formal or informal appearance before the city council or a city board or department, provided however, this subsection shall not apply to a former board member except when the former board member represent any other person or organization before the board of which he or she had been a member and any subsequent appearance before a board with appellate jurisdiction or the city council on the same matter or issue.

B. Former officers and employees shall not use for their personal benefit and shall not disclose, except as may be required by law, confidential information gained in the course of or by reason of their positions. This provision shall not prohibit the disclosure of any such information to incumbent city officers or employees to whose duties such information may be pertinent. (Ord. 15293 § 8, 2002)

Title 2 ADMINISTRATION AND PERSONNEL

Chapter 2.92 ETHICS

2.92.070 Reporting requirements.

A. Financial Disclosure.

1. Each officer, excluding elected officials whose financial disclosure requirements are governed by city charter, and each department head and executive assistant to the mayor shall file with the city clerk, within ten business days after the date of his or her appointment, selection or approval by the city council, a signed, sworn statement disclosing:

- a. Where, by whom and in what specific capacity that person is employed or self-employed;
- b. Membership on boards of directors of corporations, whether organized for profit or not;
- c. Partnership interests;
- d. The name and address of any business in which the person has a financial investment, and in the case of mutual funds and other similar pooled investments, the name of the fund or investment. For purposes of this subsection, a financial investment shall not include funds on deposit with financial institutions such as checking and savings accounts, investments in United States savings bonds, and similar investments that earn simple, compounded or money-market interest rates; unless the person has previously been appointed to a position that requires the filing of a financial disclosure form and the person already has a current financial disclosure form on file with the city clerk.

2. Each person submitting a statement of financial disclosure required under this section shall utilize a form provided by the city clerk.

3. No person submitting such a statement of financial disclosure must indicate therein the extent of financial involvement in any investments.

4. Each person subject to this section shall thereafter file with the city clerk a signed and sworn financial disclosure statement, between June 1st and June 30th of each year while in office or employed by the city, or at any other time in which the person changes his or her primary employment or has made changes in financial investments which cumulatively total more than thirty five percent of the person's total investments. Those persons who have no changes to report regarding the information required to be reported, may, in lieu of filing a complete financial disclosure form, file a short form annual report, provided that they have filed a complete financial disclosure form within the previous five years.

5. Each candidate for elective office, and each candidate for a department head or executive assistant to the mayor position shall be provided with a notice of financial disclosure requirements at the time of application for such office or employment.

6. The following types of boards are exempt from the financial disclosure requirements of this chapter:

- a. boards whose regulation is pre-empted by federal or state law;
- b. boards expressly exempted by the city council for reasons to be stated by the city council upon granting such exemption.

7. The city clerk shall, no later than August 15th of each year, prepare a report which notes whether each person subject to the filing requirement of this section has filed the required financial disclosure statement as of the date of the report. In the event that a person subject to the filing requirement has not filed his or her financial disclosure statement by the date of the completion of the report or in the event that a person fails to file his or her financial disclosure form within ten business days after the date of their appointment and they do not already have a current financial disclosure form on file, the city clerk shall send a written notice by certified mail, return receipt requested, with a copy sent by regular mail, to the person to advise the person that the clerk's records indicate that the person is subject to the requirement of this

section, the person has not filed a financial disclosure statement as required by this section and that the person has fifteen days from the date of the letter to file his or her financial disclosure statement. If the person is a board member covered under subsection (A)(8)(e) of this section, the city clerk will also advise the board member that the failure to timely file the financial disclosure statement will result in the automatic removal of that board member from his or her office. If the person is a department head or executive assistant to the mayor, the city clerk may hand-deliver the notice required under this section in lieu of mailing it and shall provide a copy of the notice to the mayor.

8. In the event that a board member fails to file his or her financial disclosure statement by the deadlines calculated under subsections (A)(1) or (7) of this section, the following actions will be taken:

a. In the event that the board member is a member of the civil service commission, the city clerk shall prepare and send a notice of the failure of the civil service commission member to file a financial disclosure statement to each member of the city council for their review and consideration regarding the possible removal of the civil service commission member from office in accordance with Section 6.1-15 of the city charter.

b. In the event that the board member is a member of the zoning board of adjustment, the city clerk shall prepare and send a notice of the failure of the zoning board of adjustment member to file a financial disclosure statement to each member of the city council for their review and consideration regarding the possible removal of the zoning board of adjustment member from office in accordance with Section 211.008, Texas Local Government Code.

c. In the event that the board member is a member of the public service board other than the mayor, the city clerk shall prepare and send a notice of the failure of the public service board member to file a financial disclosure statement to each member of the city council for their review and consideration regarding the possible removal of the public service board member from office in accordance with the applicable removal provisions contained in any pertinent ordinance adopted by the city for the issuance of water or sewer revenue bonds.

d. In the event that the board member is a member of the El Paso Housing Finance Corporation, the industrial development authority, or other similar corporation organized pursuant to state law, the city clerk shall prepare and send a notice of the failure of the board member to file a financial disclosure statement to each member of the city council for their review and consideration regarding the possible removal of the board member from office in accordance with the applicable removal provisions contained in any articles of agreement or bylaws of the corporation or statutory provisions.

e. In the event that the board member is a member of any other city board subject to the requirement of this section, that board member shall be deemed removed from office without action or review by the city council. The city clerk shall prepare and send a notice of the removal to the board member and to the city council member who had appointed the board member. The removal shall be effective on the date that the notice is deposited in the United States mail or if not mailed, upon delivery to the board member.

9. The removal provision established in subsection (A)(8)(e) of this section for the failure of a board member to file a financial disclosure statement shall be in addition to and shall be controlling over any other city ordinance or city council resolution that establishes procedures for the removal of board members.

B. Reporting of Gifts.

1. Each officer, department head and executive assistant to the mayor shall keep a written record of all reportable gifts received during his or her term of office or employment.

2. Such record shall be made for each calendar month. The record shall include a description of the reportable gift received; the name of the person and organization giving the reportable gift; the relationship of the donor to the reporter; the value or estimated value of the reportable gift; and the immediate or intended disposition of the reportable gift. A reportable gift consisting of a certificate or admission ticket to a future event or activity shall be deemed to have been received on the date on which the certificate or admission ticket was received.

3. Such monthly record shall be submitted to the city clerk on the form she provides no later than the tenth day of the following month for each month during which a reportable gift is received.

4. Reportable gifts shall mean the following:

- a. Any hosting, such as travel and expenses, entertainment, meals or refreshments, that has a value of more than fifty dollars, other than hosting provided on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
- b. Any honorarium with a value of more than fifty dollars; and
- c. Any other economic gain or economic advantage that has a value of more than fifty dollars and which was conferred on account of the official status of the recipient or in connection with official city business.

5. Any hosting, honorarium or other economic gain or economic advantage that is refused and returned to the sender within seventy-two hours of receipt shall not constitute a reportable gift under this section.

6. For purposes of this section, "honorarium" shall mean a payment, other than reimbursement for meals, travel or lodging expenses, for services provided in connection with addressing an audience or engaging in a seminar. (Ord. 15293 § 9, 2002)

[Title 2 ADMINISTRATION AND PERSONNEL](#)

[Chapter 2.92 ETHICS](#)

2.92.080 Complaints.

A. Individuals may submit matters concerning an ethical issue under the provisions of this chapter involving an officer or volunteer subject to the jurisdiction of the ethics review commission for review by the ethics review commission. The commission may review those matters that fall within its purview.

B. All persons must utilize the complaint form made available by the city attorney's office and include enough information to adequately explain the issues to enable the ethics review commission to determine whether or not the complaint states an allegation under the ethics ordinance and is supported by just cause.

C. The completed ethics ordinance complaint form is submitted to the city attorney's office for review to determine whether the matter described is within the purview of the ethics review commission.

D. If the matter is referred to the ethics review commission by the city attorney's office, the commission will schedule a review of the matter within forty-five days. The person submitting the complaint and any persons named in the complaint will be sent written notice of the date, time and place of the meeting by the city attorney's office so that these persons may have the opportunity to attend the meeting at which the review will take place.

E. The ethics review commission shall review the issues presented in the complaint form and shall make a preliminary finding as to whether or not the complaint states an allegation under this chapter and is supported by just cause. "Just cause" means such cause as is found to exist upon a reasonable inquiry that would induce a reasonably intelligent and prudent person to believe that a person has committed an act or acts constituting an ethical violation under this chapter.

F. If the preliminary finding is that the complaint does not state an allegation under this chapter or does not have just cause based upon the statements and evidence submitted, the complaint must be dismissed. The ethics review commission shall create a written report of their finding and dismissal. Such report shall be filed with the minutes of the meeting in the office of the city clerk, and the city attorney's office shall mail a copy of the report to those persons who were provided notice of the hearing.

G. If the complaint is found to state an allegation supported by just cause, the eligible members of the ethics review commission will hear the issues. A member of the ethics review commission who also serves as a board member of another city board may not participate in a review of a complaint regarding any person or matter involving or affecting such other board or its members. In such case, the ethics review commission member shall abstain from voting on the matter and refrain from discussion of the matter at any time with the other members of the ethics review commission.

H. After hearing the issues on the complaint, the ethics review commission will issue a written summary of the matter and a decision or recommendation based on the information available to the commission. The ethics review commission must:

1. Dismiss the complaint or find that no violation of the ordinance occurred with the grounds for such dismissal or finding set forth in the report;
2. Find that there may have been a violation of this chapter and identify in the report the particular provision or provisions alleged to have been violated; or
3. Recommend to the city council that the city council take up the matter in lieu of a recommendation for a specific action from the ethics review commission and identify the reasons for such recommendation in the report.

I. If after hearing the issues, the ethics review commission dismisses the complaint or finds that no violation of the ordinance occurred, the ethics review commission shall create a written report of their findings or dismissal, and such report shall be filed with the minutes of the meeting in the office of the city clerk, and a copy of the report shall be mailed to those persons who were provided notice of the hearing.

J. If after hearing the issues, the ethics review commission determines that a violation of this chapter may have occurred, it shall refer the matter to the city council and request that the city council determine if the ethics review commission should proceed to recommend a sanction in the matter as permitted under this chapter. If the complaint involves a member of the city council and the city council determines that the ethics review commission should proceed further with the matter, the city council shall take action to appoint independent legal counsel for the ethics review commission and any subsequent proceedings and shall refer the matter back to the ethics review commission for proceedings to recommend a sanction in accordance with this chapter.

K. During any authorized subsequent proceedings, the ethics review commission may consider the recommendation of the issuance of any of the following sanctions.

1. Letter of Notification. A letter of notification may be recommended when the ethics review commission finds that a violation of this chapter was clearly unintentional or when the action or conduct found to have been a violation of this chapter was performed by the official in reliance on a written opinion of the city attorney. A letter of notification may advise the official to whom the letter is directed of any steps to be taken to avoid future violations.
2. Letter of Admonition. A letter of admonition may be recommended when the commission finds that the violation of this chapter was minor and/or may have been unintentional, but where the circumstances call for a more substantial response than a letter of notification.
3. Letter of Reprimand. A reprimand may be recommended when the commission finds that a violation of this chapter was committed intentionally or through disregard of this chapter.
4. Removal from Office. Removal from office may be recommended when the commission finds that a serious or repeated violation of this chapter was committed by an officer intentionally or through culpable disregard of this chapter.

L. If the ethics review commission recommends the imposition of a sanction, it shall prepare a written report containing its recommendation. The report will be sent to the city clerk who shall, within fourteen days of receipt, place the matter on the city council agenda for discussion and action by the city council regarding the recommendation of the ethics review commission. If the city council votes to accept the recommendation of the ethics review commission for the imposition of a letter of notification, a letter of admonition, or a letter of reprimand or makes its separate determination for the imposition of a sanction, the city attorney shall draft the letter of sanction and mail a copy of the letter to the person receiving the sanction, certified, return receipt requested. In the event that independent legal counsel was appointed to represent the commission as provided in this section, the independent legal counsel shall appear at the

hearing on the matter before the city council and shall draft and mail any letter of sanction. A copy of the letter of sanction shall also be placed on file at the office of the city clerk. The final authority to carry out a recommendation for removal from office shall be with the city council and shall take place in conformity with any other law or requirements for such removal. The city clerk shall, within fourteen days of the date of any city council action taken on a complaint, forward a copy of such action to the chair of the ethics review commission. (Ord. 15293 § 10, 2002)

Title 2 ADMINISTRATION AND PERSONNEL

Chapter 2.92 ETHICS

2.92.090 Penalty.

A. The failure of any officer or employee to comply with this article or the violation of one or more of the standards of conduct set forth in this article, which apply to him or her, shall constitute grounds for expulsion, reprimand, removal from office or discharge. In the case of an employee of the city, disciplinary action and appeals therefrom shall be in conformance with procedures established by the city charter and personnel rules and regulations. In the case of a council member, the matter shall be decided by a vote of the city council in accordance with the charter. In the case of board members, the matters shall be decided by the city council. The decision of these bodies shall be final.

B. Any person violating Section 2.92.050(F) or Section 2.92.060 of this chapter shall be deemed guilty of a misdemeanor as set forth in Section 1.08.010 of the city code. (Ord. 15293 § 11, 2002)

12.85.010 Parking violations bureau established.

There is created a parking violations bureau within the El Paso Municipal Courts of Record, hereinafter referred to as the municipal courts, which shall have original jurisdiction over cases involving violations of city ordinances relating to the stopping or parking of vehicles as contained in Title 12 of this code. The administrative adjudication of violations under this chapter is civil in nature. (Ord. 11051 (part), 1992; Ord. 10971 § 1 (part), 1992)

Title 12 VEHICLES AND TRAFFIC

Chapter 12.85 PARKING VIOLATIONS BUREAU

12.85.020 Hearing officers.

A. The parking violations bureau shall have one or more hearing officers who shall be appointed by the mayor with approval by city council for a term of two years. The hearing officers will serve at the mayor and city council's pleasure as a contract employee.

- B. Hearing officers shall have the authority to administer oaths and to issue orders compelling the attendance of witnesses and the production of documents.
- C. An order compelling the attendance of witnesses or the production of documents may be enforced by the municipal courts. (Ord. 11051 (part), 1992; Ord. 10971 § 1 (part), 1992)

[Title 12 VEHICLES AND TRAFFIC](#)

[Chapter 12.85 PARKING VIOLATIONS BUREAU](#)

12.85.050 Hearings.

- A. At the hearing before the hearing officer, the defendant may either admit, admit with explanation, or deny the alleged infraction.
- B. The issuing peace officer or other authorized parking enforcement agent shall not be required to attend the hearing.
- C. It is not required that the city be represented by counsel at the hearing; provided, however, that if the defendant is represented by counsel at the hearing, the hearing officer shall notify the municipal court clerk, who shall have the right to arrange for the city to be represented by an assistant city attorney.
- D. Neither a complaint nor any other charging instrument is required. The hearing officer shall examine the contents of the citation and the evidence related to ownership of the vehicle in question, and shall hear and review the testimony and evidence presented by the defendant. The formal rule of evidence do not apply to a hearing under this section, and the hearing officer shall make his decision based upon a preponderance of the evidence presented at the hearing, after giving due weight to all presumptions and prima facie evidence established by this chapter or other applicable law.
- E. At the conclusion of the hearing, the hearing officer shall issue an order stating whether or not the person charged is liable for violation of the parking or stopping ordinance and the amount of the fine, costs or fees assessed against him. The order shall be filed with the municipal court clerk. All such orders shall be kept in a separate index or file by the municipal court clerk using appropriate data processing techniques.
- F. Failure of a person charged with the offense to appear at a hearing within the aforesaid fourteen-day period shall be considered an admission of liability for the charged offense.
- G. In accordance with Article 102.014(b), Texas Code of Criminal Procedure, a hearing officer shall impose a court cost of two dollars on each parking violation in which a fine, costs or fee is paid or assessed. This court cost may be enforced in the manner set forth in Section 12.85.070. (Ord. 11051 (part), 1992; Ord. 10971 § 1 (part), 1992)

[Title 12 VEHICLES AND TRAFFIC](#)

[Chapter 12.85 PARKING VIOLATIONS BUREAU](#)

12.85.060 Appeal.

- A. A person determined by the hearing officer to be in violation of a parking or stopping ordinance may appeal this determination to the municipal courts.
- B. The appeal is initiated by filing, not later than the thirtieth day after the filing of the hearing officer's order, a petition with the clerk of the court along with payment of the costs required by law for the municipal court. Additionally, a filing fee in the amount of ten dollars must be paid at the time the petition is filed. This ten dollar filing fee will be refunded in the event the hearing officer's order is reversed by the municipal court.
- C. After filing a petition of appeal, the municipal court clerk shall schedule a hearing and notify all parties of the date, time and place of the hearing.
- D. The appeal hearing must be before a municipal court judge and is a civil proceeding for the purpose of affirming or reversing the hearing officer's order based upon a review of a record of the evidence presented to the hearing officer. The municipal court judge shall affirm the hearing officer's order if there is substantial evidence in the record to support the order. The decision of the municipal court judge is final.
- E. The filing of an appeal under this section does not stay the enforcement and collection of the judgment unless the person who files the appeal posts a cash bond before filing notice of appeal with the municipal court clerk. The cash bond shall be in the amount of all fines, costs and fees assessed by the hearing officer. (Ord. 11821 § 3, 1994; Ord. 11051 (part), 1992; Ord. 10971 § 1 (part), 1992)

[Title 12 VEHICLES AND TRAFFIC](#)

[Chapter 12.85 PARKING VIOLATIONS BUREAU](#)

12.85.120 Certain conduct unlawful.

- A. It shall be unlawful for any person, other than an officer or employee of the city acting in the course scope of his duties under this chapter, to remove or attempt to remove or to tamper in any manner an immobilization device (boot) installed on any vehicle pursuant to this chapter.
- B. It shall be unlawful for any person, except under the direction of a peace officer, to tow or move or cause to be towed or moved any vehicle on which a boot is then installed pursuant to this chapter from the place where it was booted.
- C. It shall be unlawful for any person, other than an officer or employee of the city acting in the course and scope of his duties or the owner or operator of a booted vehicle, to remove or relocate any notice placed upon a booted vehicle under Section 12.85.070(A)(2).
- D. Any offense under this section shall be a criminal offense punishable upon conviction by a fine not to exceed five hundred dollars. To the extent that any conduct declared to be unlawful under this section also constitutes a violation of any valid and applicable state law, then it shall be punishable as provided by state law. (Ord. 11051 (part), 1992; Ord. 10971 § 1 (part), 1992)